

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
CHARLES L. DECESARE,

Plaintiff,

-against-

THE AETNA LIFE INSURANCE CO. and
THE DRESS BARN LONG TERM
DISABILITY PLAN,

Defendants.
-----X

Civil Action No.
12 Civ. 7162 (KMK)

**PLAINTIFF'S RULE 26
INITIAL DISCLOSURE**

Plaintiff, CHARLES L. DECESARE, by his attorney, LAW OFFICE OF BARBARA A. MATARAZZO, submits the following for his Rule 26 Disclosure to defendants:

A. The names and addresses of each person likely to have discoverable information relevant to disputed facts are as follows:

1. Charles DeCesare
31 High Street
Warwick, NY 10990
2. Catherine DeCesare
31 High Street
Warwick, NY 10990
3. Dr. Michael Dobrow, D.O.
c/o Mega Medical Group
1084 Main Avenue
Clifton, NJ 07011
4. Dr. Stephen K. Koverman, M.D.
c/o Warwick Medical Assoc. LLP.
5 Grand Street
P.O. Box 677
Warwick, NY 10990
5. Dr. Shuang-Ping Wang, M.D.
c/o Warwick Medical Assoc. LLP
5 Grand Street
P.O. Box 677
Warwick, NY 10990

6. Dr. Deborah L. Benzil, M.D., Surgeon
c/o Westchester Spine & Brain Surgery
280 No. Central Avenue – Suite 235
Hartsdale, NY 10530
7. Arthur Zirpoli, P.T.
c/o St. Anthemy Community Hospital
153 So. Route 94
Warwick, NY 10990
8. Dr. Steven Leffler, M.D.
c/o St. Anthony Community Hospital
15 Maple Avenue
Warwick, NY 10990
9. Dr. Reginald Denis, M.D.
c/o St. Anthony Community Hospital
15 Maple Avenue
Warwick, NY 10990
10. Dr. Bruce Campbell, M.D., Radiologist
c/o St. Anthony Community Hospital
15 Maple Avenue
Warwick, NY 10990
11. Dr. Suzanne Brown Berkowitz, MD Radiologist
c/o St. Anthony Community Hospital
15 Maple Avenue
Warwick, NY 10990
12. Dr. DiLip v. Subhedar
133 Lafayette Avenue
Suffern, NY 10901
13. Dr. John Juliano
c/o St. Anthony Community Hospital
15 Maple Avenue
Warwick, NY 10990
14. Dr. Joseph Deutsch – Orthopaedic Surgery
c/o St. Anthony Community Hospital
15 Maple Avenue
Warwick, NY 10990

15. Dr. Karen Garvey, M.D. (Aetna doctor)
c/o Cornerstone Medical & Wellness
241 B Millburn Avenue
Millburn, NJ 07041
16. Dr. Julianio – Ronald Regan Blvd.
Warwick, NY
17. Dr. Snyder – Arthroscopic Surgery
Warwick, NY
18. Dr. Robert Swotinsky (Aetna Doctor)
21 Raymond Road
Sudbury, MA 01776

B. The following documents are all the documents currently in plaintiff's possession bearing significantly on claims and defenses in this action: [Bates#'s indicated]

1. Policy of Insurance
Dress Barn Long Term Disability Plan (p. 1-16)
2. Dress Barn Inc. 401(k) Savings Plan (p. 17-46)
Summary of Plan Description
3. Dress Barn Summary of Coverage

Aetna correspondence File (p. 47-52)

4. Aetna Letter 3/30/09 (p. 53)
5. Aetna Letter 5/5/09 (p. 54)
6. Aetna Letter 5/22/09 (p. 55-85)
7. Aetna Letter 6/3/09 (p. 86-88)
8. Aetna Letter 6/9/09 (p. 89-92)
9. Aetna Letter 6/11/09 (p. 93-96)
10. Aetna Letter 12/22/09 (p. 97)
11. Aetna Letter 3/6/10 (p. 98-104)
12. Aetna Letter 3/10/10 (p. 105)

- 12.a.- DeCesare letter 3/30/10 (p. 106)
13. Aetna Letter 4/7/10 (p. 107)
14. Aetna Letter 5/7/10 (p. 108)
15. Aetna Benefits Statement 4/1/10 (p. 109)
16. Aetna Benefits Statement 5/1/10 (p. 110)
17. Aetna Letter 7/16/10 (p. 111)
18. Aetna Letter 8/9/10 (p. 112-113)
19. Aetna Letter 8/17/10 (p. 114)
20. Aetna Letter 10/29/10 (p. 115-116)
21. Aetna Letter 12/29/10 (p. 117)
22. Aetna Letter 12/29/10 (p. 118)
23. Aetna Letter 7/22/11 (p. 119-123)
24. Barbara A. Matarazzo, Esq. letter 10/6/11 (p. 124)
25. Barbara A. Matarazzo, Esq. letter 10/26/11 (p. 125)
26. Barbara A. Matarazzo, Esq. letter 11/1/11; with Dr. Wang Letter and Dr. Dobrow Letter (p. 126-129)
27. Barbara A. Matarazzo, Esq. letter 11/1/11 (p. 130-131)
28. Barbara A. Matarazzo, Esq. e-mail 11/11/11 (p. 132)
29. Aetna letter 11/29/11 (p. 133-135)
30. Barbara A. Matarazzo, Esq. letter 12/16/11 (p. 136-138)
31. Aetna Letter 12/16/11 (p. 139)
32. Barbara A. Matarazzo, Esq. letter 12/30/11 (p. 140-141)
33. Aetna Fax 12/30/11 (p. 142-144)
34. Aetna Letter (Denial) 1/9/12 (p. 145-153)

- 35. Barbara A. Matarazzo, Esq. letter/fax 1/17/12 (p. 154-157)
- 36. Aetna Letter 2/3/12 (p. 158)
- 37. Aetna Termination Notice 2/8/12 (p. 159-172)
- 38. Aetna Letter 2/9/12 (p. 173)
- 39. Dr. Garvey C.V. (p. 174-176)
- 40. Dr. Swotinsky C.V. (p. 177-185)
- 41. Aetna Letter 6/15/12 (p. 186)
- 42. Aetna Letter/fax 7/17/12 (p. 187-190)
- 43. Barbara A. Matarazzo, Esq. letter/fax 7/23/12 (p. 191-192)
- 44. Aetna Letter 7/25/12 (p. 193)
- 45. Aetna Letter 8/1/12 (p. 194)
- 46. Aetna Letter 8/3/12 (p. 195)
- 47. Barbara A. Matarazzo, Esq. letter 9/6/12 (p. 196-197)

Dress Barn Correspondence File

- 48. David Montieth, Human Resources (p. 198-201)
Letter – 6/9/09
- 49. Human Resources Memo with Benefit Enrollment Form 5/3/00 (p. 202-209)
- 50. HIPAA Complaint Authorization (p. 210-225)
- 51. Linda Stiso, Disability Admin. Letter 3/25/09 (p. 226-228)
- 52. Anthem Letter 5/20/11 (p. 229-233)
- 53. DeCesare Letter 3/30/10 (p. 234)
- 54. Isabella Spiegel Letter 6/16/09 (p. 235)
- 55. Dress Barn Letter 5/18/10 (p. 236-237)
- 56. Isabella Spiegel Letter 6/16/09 (p. 238)

- 57. DeCesare Letter (p. 239)
- 58. DeCesare Letter 3/7/10 (p. 240)
- 59. Dress Barn Letter 3/27/09 (p. 241)
- 60. Dress Barn Letter 4/7/10 (p. 242-249)
- 61. NYS Ins. Fund Corresp. 11/24/08 Authorization Forms File (p. 250)
- 62. Anthem Form 5/5/03 (p. 251-253)
- 63. Anthem Letter 5/30/09 (p. 254)
- 64. Aetna Work History & Educ. Questionnaire (p. 255-257)
- 65. Aetna Work History & Educ. Questionnaire 6/4/09 (p. 258-269)
- 66. Soc. Sec. Admin. Forms. (p. 270-276)
- 67. NYS Office Temporary & Disability Assistance Letter – 4/21/10 (p. 277-287)
- 68. Soc. Sec. Admin. Forms (p. 288-291)
- 69. Aetna Form – 1/5/11 (p. 292-302)

St. Anthony Hospital

- 70. St. Anthony MRI Report 2/11/03 (p. 303)
- 71. St. Anthony MRI Report 4/27/06 (p. 304-306)
- 72. St. Anthony MRI Report 4/27/06 (p. 307-308)
- 73. St. Anthony MRI Report 4/27/06 (p. 309-310)
- 74. St. Anthony MRI Report 2/19/08 (p. 311-313)
- 75. St. Anthony MRI Report 3/30/09 (p. 314-317)
- 76. St. Anthony MRI Report 5/21/09 (p. 318)
- 77. St. Anthony MRI Report 9/29/10 (p. 319)

Valley Hospital

78. Hospital Record (p. 320-359)

Dr. Dobrow

79. Dr. Dobrow Letter -- 7/25/11 with fax cover sheet (p. 360-361)

Warwick Medical Assoc. LLP.

80. Dr. Benzil Letter 5/17/09 (p. 362)

81. Dr. Hoverman Aetna Forms 6/3/09 (p. 363-373)

82. Dr. Hoverman Letter 6/17/09 (p. 374)

83. DeCesare Letter with attachments 6/19/09 (p. 375-379)

84. Dr. Hoverman Aetna Forms 3/17/10 (p. 380-386)

85. Dr. Wang Letter 7/14/11 (p. 387)

86. Dr. Dobrow Letter 7/25/11 (p. 388)

87. Dr. Wang Letter 3/28/12 (p. 389)

Westchester Spine File

88. Dr. Benzil/Westchester Spine File (p. 390-412)

Physical Therapy File

89. Arthur Zirpoli, P.T. Aetna Forms 3/29/10 (p. 413-416)

90. Physical Therapy Exercise Program (p. 417-427)

Appeal of Benefits File

91. Unival Letter 9/16/11 (p. 428-429)

92. Unival Fax 9/30/11 (p. 430-432)

93. Dr. Dobrow Letter 3/14/11 (p. 433-434)

94. Research Consultants Group Inc. Surveillance Report 10/20/11 (p. 435-445)

- 95. Aetna Letter to Dr. Wang 11/29/11 (p. 446-451)
- 96. Aetna Letter to Dr. Dobrow 11/29/11 (p. 452-455)
- 97. Aetna Denial of Benefits Letter 1/9/12 (p. 456-464)
- 98. Aetna Termination Notice 2/8/12 (p. 465-478)
- 99. Barbara A. Matarazzo, Esq. Appeal Letter 5/3/12 (p. 479-492)
- 100. Aetna Denial of Appeal 8/24/12 (p. 493-495)

C. Plaintiff's computation of damages are pursuant to the policy of insurance as follows:

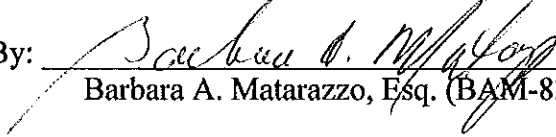
\$7,800 in monthly benefits from the date of denial of plaintiff's Total Disability Claim benefits September 29, 2011, for plaintiff's expected benefit eligibility period; plus premium payments which should have been waived; which sum is believed to exceed \$3,000,000.

D. The policy of insurance is attached hereto as **Exhibit 1 (scanned to disk, provided herewith).**

Dated: White Plains, New York
March 20, 2013

Yours, etc.,

LAW OFFICE OF BARBARA A. MATARAZZO, ESQ.
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Docket No.: 12cv7162

CHARLES L. DECESARE,

Plaintiff,

-against -

THE AETNA LIFE INSURANCE COMPANY, AND
THE DRESS BARN LONG TERM DISABILITY PLAN,

Defendant.

PLAINTIFF'S RULE 26 INITIAL DISCLOSURE

LAW OFFICE OF BARBARA A. MATARAZZO

Attorneys for Plaintiff, Charles L. DeCesare

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Pursuant to 22 NYCRR 130-1.1-a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom and that (ii) if the matter involved potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-a.

Dated: _____

Signature _____